

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 Aimee O’Neil,

4 Plaintiff

5 v.

6 Andrew Poland, et al.,

7 Defendants

Case No.: 2:20-cv-00648-JAD-EJY

Ninth Circuit Case No. 20-16544

**Order revoking *in*
forma pauperis status**

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9 The United States Court of Appeals for the Ninth Circuit referred this matter back to this
10 court for the limited purpose of determining whether *in forma pauperis* status should continue
11 for this appeal.¹ The decision to continue such status turns on whether any claim is frivolous, for
12 “[i]f at least one issue or claim is found to be non-frivolous, leave to proceed in forma pauperis
13 on appeal must be granted for the case as a whole.”²

14 In this civil-rights case, plaintiff Aimee O’Neil sued the Colorado Office of Alternate
15 Defense Counsel and Andrew Poland, the public defender who represented her in a Colorado
16 State Court prosecution. The magistrate judge entered a report and recommendation to dismiss
17 this case, primarily because this court lacks personal jurisdiction over these Colorado-based
18 defendants with no apparent connection to Nevada.³ The magistrate judge also recommended
19 that I deny O’Neil’s pending motion for entry of default against the defendants because the
20 record does not reflect that they were properly served with process.⁴ The deadline for objections

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22 ¹ ECF No. 19.

23 ² *Hooker v. Am. Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002).

³ ECF No. 13.

⁴ *Id.* at 5–6.

1 to that report and recommendation passed without objection or request to extend the deadline to
2 file one, and “no review is required of a magistrate judge’s report and recommendation unless
3 objections are filed.”⁵ So I adopted that unchallenged report and recommendation, denied the
4 motion for default judgment, and dismissed this action for lack of jurisdiction.⁶ **Because the**
5 **appeal from that decision is frivolous and not taken in good faith, IT IS HEREBY**
6 **ORDERED THAT the district court revokes *in forma pauperis* status.**

7 The Clerk of Court is directed to **SEND a copy of this order to the Clerk of the United**
8 **States Court of Appeals for Case No. 20-16544.**

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11 U.S. District Judge Jennifer A. Dorsey
12 Dated: August 18, 2020
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23 ⁵ *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); *see also Thomas v. Arn*, 474
U.S. 140, 150 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

⁶ ECF No. 14.